

# Rincon Band of Luiseño Indians

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March 9, 2008

Penny Coleman  
Acting General Counsel  
National Indian Gaming Commission  
1441 L Street N.W.  
Suite 9100  
Washington DC 20005

Re: Comments on Proposed Rule for Technical Standards for Class II Games

Dear Ms. Coleman:

On behalf of the Rincon Band of Luiseño Indians, I write to provide comments on the proposed technical standards for Class II games. The Band understands that these proposed standards are the product of several years of collaborative effort between the Commission, tribal gaming regulatory agencies, manufacturers, and others involved in the daily operations of tribal gaming. We applaud the process taken by the Commission to work jointly with tribes in developing these standards, and we hope that the commission continues these types of efforts in future regulatory efforts.

## Specific Comments

§ 547.4 This section requires compliance with the proposed classification standards, which are opposed. The following provisions should be amended:

§547.4(b)(2) should read: "Subject to any applicable regulations, any grandfathered Class II gaming system . . ." The current language renders the grandfathering clause useless by requiring the grandfathered gaming systems to comply with the classification standards.

§547.4(c)(2)(ii) should read: "Applicable provisions of Commission regulations, including those governing minimum internal control standards . . ."

§547.4(c)(3)(ii) should read: "Applicable provisions of Commission regulations, including those governing minimum internal control standards . . ."

§547.4(b) Given the enormous cost associated with the proposed classification standards—with respect to the lost revenue and cost to replace gaming systems--the NIGC should allow Class II gaming systems to be grandfathered for at least 10 years or the remaining useful life of a

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system, whichever occurs later. This will allow tribes to replace gaming systems based on business need, rather than an arbitrary regulatory deadline.

§547.4(d)(2)(ii). This requirement to submit all new hardware or software to a lab for testing is costly and time consuming. Therefore, it should only be limited to hardware or software that affects the outcome of the game.

§ 547.4(f)(1)(iii). It is unclear why a test lab cannot be owned by a tribe. This is not appropriate if the proper independence is maintained between the tribe and the test lab. There are also several examples of states that regulate and sometimes operate casinos (and certainly lotteries) which operate their own testing labs. There appears to be no rational reason for this tribal ownership prohibition.

§ 547.5(b) should be amended to read: "Gaming equipment . . . shall meet all applicable requirements of this part and applicable requirements of other Commission regulations."

§547.5(c). It is unclear why the probability odds should be set by the Commission, or why these are the appropriate odds. This requirement is inconsistent with IGRA. Class II gaming should be allowed to be as competitive as any other form of gaming, including state lotteries.

§ 547.7(g) should be amended to add back in the phrase "designed to be" so that it reads: Any Class II gaming system components that store financial instruments and that are not designed to be operated . . . ." This language is necessary to ensure that the component is held to a standard for which it was designed and not how it may be operated. Any operational controls should be covered in the MICS .

§ 547.7(h) should be amended to add back in the phrase "designed to be" so that it reads: "Any Class II gaming system components that handle financial instruments and that are not designed to be operated . . . ." This language is necessary to ensure that the component is held to a standard for which it was designed and not how it may be operated. Any operational controls should be covered in the MICS

§ 547.7(j) should be amended to add back in the original word "secured" instead of "sealed". For example if the DIP switch access is secured because access is restricted via a lock, this would not be in compliance with the regulation as a seal was not used in the process. Secured is a better word choice here.

§ 547.8 There are various provisions that include alternative displays in the requirements or standards for those provisions. Because alternate displays are not part of the game, that feature should not be held to the same standards as those features that are a part of the game. The following sections should be amended:

§ 547.7(a)(2)(ii) delete the term "alternative display of results"

§ 547.7(d)(2) delete the term "alternative display results implemented in video, rather than electro-mechanical, form, if any"

§ 547.7(d)(4)(vi)(E) delete the term “alternative display results implemented in video, rather than electro-mechanical, form, if any”

§ 547.8(b) should be amended to allow for change of rules when there are no players currently in play. The section should read: “There shall be no automatic or undisclosed change of rules after the game starts.”

There are various provisions that apply to bingo and games similar to bingo. Standards for games similar to bingo should be separate because the complementary MICS are limited to bingo games only. The following sections should be amended:

547.8(b)(2) delete the term “and games similar to bingo”;  
547.8(d)(4)(vi) delete the term “and games similar to bingo”  
547.16(a)(4)(iv) delete the term “and games similar to bingo”

§ 547.7(d)(4)(vi)(D). The effect of inserting 'prize' here implies if the pattern doesn't result in a prize, it need not be recorded. This is incorrect and the word “prize” should be removed.

§ 547.12(b). The product has been tested and approved. To require that the TGRA have to verify every download is unnecessary and extremely onerous. If the intent is to ensure that only TGRA approved software is downloaded then we need to reword and move this to the MICS as the system cannot comply

547.17(c)(1)(vi). If the Commission does not act within a certain period of time, the variance should be deemed approved. Subsection (vii) should be added back in to read: “In the absence of a decision by the Commission within 30 days, as required, the tribal gaming regulatory authority’s decision shall be upheld.” This language is needed to give clarity to Commission inaction. The TGRA needs guidance should the Commission does not respond with the time prescribed under this regulation.

Thank you for the opportunity to provide specific comments on these proposed technical standards.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Bo Mazzetti".

Bo Mazzetti, Vice Chairman  
Rincon Band of Luiseno Indians